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QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; FOREIGN DEBT, ECONOMIC ADJUSTMENT POLICIES AND THEIR EFFECTS ON THE FULL ENJOYMENT OF HUMAN RIGHTS AND, IN PARTICULAR, ON THE IMPLEMENTATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT

Written statement submitted by the Centre Europe - Tiers Monde, a non-governmental organization on the Roster

The Secretary-General has received the following written statement, which is distributed in accordance with Economic and Social Council resolution 1296 (XLIV).

[3 February 1994]

1. The Centre Europe-Tiers Monde (CETIM) attaches particular importance to North-South relations and their political, economic and social evolution. It also finds that the deterioration of the economic situation, as well as the trend towards globalization and interdependence, have made it more difficult for the developing countries and the countries with economies in transition to achieve their objectives of socio-economic development, progress and social justice. Current economic policies in general and the structural adjustment policies being implemented in the developing countries, in particular, tend to create or sustain social imbalances, which are undeniable causes of tension and violence. This situation has had disturbing consequences for human rights violations, which have constantly been on the increase in the economically weakest countries.

2. These preliminary findings are intended to demonstrate the need to implement a consistent global policy, bearing in mind that the promotion of human rights is indissociable from a particular type of economic and social development. To this end, the economic and social order to be built must be based on a set of conditions accepted by all, but adjusted to take account of specific regional characteristics.

External debt: legitimacy and joint responsibility

3. With regard to the recommendations made by the Secretary-General in his report contained in document E/CN.4/1993/16, CETIM supports the proposal to recommend that the Commission should "call for the International Monetary Fund and the World Bank to review and implement their original mandates. If the IMF were to resolve payment imbalances in an equitable and controlled manner, the burden of adjustment would not only be on the deficit countries but would be reasonably shared between surplus and deficit countries. If the World Bank would take up seriously its initial task of recycling global surpluses of the rich nations to deficit nations, the poorer countries would not be obliged to borrow on the private financial markets".

4. Accordingly, if the IMF's initial and declared task really is to reduce the external debt of the indebted countries of the South by recycling global surpluses, it has failed completely: in one of its latest reports, the World Bank, which admittedly takes account for the first time of the debt of the former Soviet Union, states that the combined debt of the developing countries increased by a further $1.703 billion at the end of 1992.

5. In fact, the IMF is neither an international service nor an arbitrator, but, rather, the legal counsel for one of the parties, namely, the creditors. It acts like a debt recovery office, but one of a very special nature.

6. In a private law case, the debtor enterprise would be declared bankrupt. Its assets would be liquidated, but the debt recovery office would not pledge to ensure that the creditors were fully reimbursed. The only thing they could do would be to record their losses and the case would be closed.

7. However, a country cannot declare itself bankrupt. Countries which tried to do so were threatened with the worst punishments, with the IMF leading the attack. The IMF's real role is thus not to help such countries reduce their debt or to put an end to their bankruptcy. It is, rather, to place them under

supervision by converting irrecoverable debts into debt service commitments to be paid in perpetuity.

8. Since the situation is constantly getting worse, CETIM shares the point of view of several non-governmental organizations that the debt should be cancelled. UNDP studies show that the constant deterioration of the balance of payments of four fifths of the developing countries is basically the result of the unequal terms of trade which govern international trade. Unless there are radical changes in these terms and in North-South relations, it is totally illusory to think that the debt of the economically poor countries can be absorbed in any other way or even simply reduced.

9. Because of the burden that debt places on the peoples of the South, it can only be recommended that it should be cancelled, but it must also be asked who will pay for this cancellation. In order to solve this problem, however, we must first ask about legitimacy - not the legitimacy of global debt, but the legitimacy of each of the claims composing it. Considering the legitimacy of a claim thus also involves raising the question of joint responsibility or, as the economists say, risk-sharing.

10. To our knowledge, these are questions that the IMF and the World Bank have never really thought about. We will ask only a few:

> How many claims are fraudulent? How many debts are the result of contracts which, in civil law, could be denounced on the grounds of fraud? How many completely fictitious projects for turnkey factories never have and never could have worked? How much embezzlement and bribery have there been? How many Duvaliers and Marcoses are there in the world? Why is this problem of the legitimacy of claims never raised, whereas a set of very subtle conditionalities is laid down in connection with IMF loans?

Many of these questions still have not been answered, despite all the energy the IMF and the World Bank put into the debt problem.

11. On the basis of the foregoing, CETIM wishes to make some proposals designed to lighten the debt burden and its dramatic consequences for the realization and promotion of human rights:

(1) Prior to any obligation of reimbursement and any setting of "conditionalities" by the IMF, audits should be made of the legitimacy of claims, the identity and responsibilities of debtors and creditors and, in addition, the origin of the capital lent. These audits might be made by independent bodies, such as the United Nations Commissions for Africa, Latin America and Asia.

(2) On the basis of the information collected and in the context of the Hague Court for example, an independent international commission should be set up to evaluate:

> (a) The share of responsibility of States, banks and enterprises for the loans granted;

(b) The origin of the capital originally lent and the whereabouts of capital that has disappeared.

Corruption works both ways. The moralization of the economy would thus be brought up as a matter for discussion.

(3) The foreign assets of the leaders of indebted countries (one third, if not two thirds, of the total debt, according to certain studies) should be frozen. It is up to these leaders to prove that they got rich legitimately.

(4) The concessional terms and tax gifts that have enabled western banks to cover their losses should be investigated. It is only right that taxpayers should know what economic agents are really up to.

12. On this basis, it might be possible to determine what share of the debt is "legitimate" and to cancel the share that is public. It is high time for private lenders, especially the big banks and, as is more and more often the case, private enterprises, which have granted loans and credits unthinkingly, singing the praises of the free play of the market forces, to agree, as is only natural, to share the risks. And if the debtor is insolvent, such risk-sharing means that they can write off the outstanding balance!